

PETER LeCOMPTE,

Petitioner,

vs.

HUNTERDON COUNTY AGRICULTURE
DEVELOPMENT BOARD,

Respondent.

STATE OF NEW JERSEY

OAL DKT. NO.: ADC 9378-10

AGENCY REF. NO.: SADC #1156

FINAL DECISION

FINDINGS OF FACT

This case arises from an appeal by Peter LeCompte ("LeCompte") of a decision by the Hunterdon County Agriculture Development Board ("HCADB" or "board") denying an application for a site specific agricultural management practice ("SSAMP") filed by Charles W. Fisher ("Fisher"), owner of Spring Meadow Farm in Delaware Township.

Fisher's January 22, 2010 application sought the HCADB's affirmative determination that the harnessing and sale of water flowing from a natural spring on the farm constituted protected agricultural activities pursuant to N.J.S.A. 4:1C-9 of the Right to Farm Act ("RTFA") and that the board could thereby grant Fisher approval of those activities as an SSAMP.

The HCADB held a public hearing on April 8, 2010 and decided that the harnessing of spring water was not a permitted agricultural activity under the RTFA. The board's determination was memorialized by resolution dated June 10, 2010.

By letter dated April 16, 2010, LeCompte, represented by counsel, appealed the HCADB's April 8 decision pursuant to N.J.S.A. 4:1C-10.2 and N.J.A.C. 2:76-2.3(f). The SADC sent written inquiry to the attorney regarding whether and how LeCompte was an "aggrieved person" contemplated by N.J.A.C. 2:76-2.3(f) and the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq. By letter dated July 28, 2010, counsel advised the SADC that his client also owns farm property in Hunterdon County generating natural spring water and that, if unappealed, the HCADB's decision would be binding on similarly situated individuals like LeCompte.

The SADC transmitted the LeCompte appeal to the Office of Administrative Law (OAL) on August 31, 2010. On March 17, 2011, LeCompte and the HCADB entered into a written settlement in which the parties agreed to the following: (1) the denial of the Fisher SSAMP application by the HCADB would not preclude LeCompte from filing his own SSAMP application for a similar spring water operation on his farm; (2) if such an application were filed, LeCompte would

have a full opportunity to present testimonial and documentary evidence to the board; (3) the HCADB would review the LeCompte SSAMP application and render a decision consistent with the law and regulations then in effect; (4) LeCompte would have the right to appeal to the SADC if aggrieved by the board's decision; (5) LeCompte's appeal of the Fisher SSAMP determination was withdrawn.

Counsel for the parties signed the agreement on March 17, 2011 and, by Initial Decision dated March 18, 2011, the administrative law judge (ALJ) approved the settlement agreement. In approving the agreement and incorporating it in the Initial Decision, the ALJ concluded that the agreement complied with N.J.A.C. 1:1-19.1(b), finding that the settlement was voluntary, consistent with law, and fully dispositive of all issues in controversy.

CONCLUSIONS OF LAW

The SADC hereby **AFFIRMS** the Initial Decision based on the "Findings of Fact" set forth above. This affirmance shall not be construed as SADC support for the proposition that the harnessing and sale of spring water on a commercial farm are protected agricultural activities under the RTFA.

IT IS SO ORDERED.

Dated: April 28, 2011

Douglas H. Fisher, Chairman,
State Agriculture Development
Committee

S:\RIGHTTOFARM\Cases\HUNTERDON\1156 - Fisher\Final decision.doc